

9 FAM 42.55

NOTES

(CT:VISA-2113; 05-21-2014)
(Office of Origin: CA/VO/L/R)

9 FAM 42.55 N1 POST REPORTS OF IMMIGRANT VISA (IV) APPLICANTS

9 FAM 42.55 N1.1 Monthly Reports of Qualified Applicants

(CT:VISA-2113; 05-21-2014)

The documentarily qualified figures submitted monthly (see 22 CFR and 9 FAM 42.52 N3.5) provide the Department the known total (by priority date, chargeability, classification, and post) of visa applicants who are awaiting only visa numbers to apply formally for a visa. After collation of these data, the Department makes monthly allotments to the extent available visa numbers permit. (See 22 CFR and 9 FAM 42.51.) If demand exceeds the supply of available numbers, the priority date of the first applicant for whom a number is not available becomes the issuance cutoff date for the categories and foreign states concerned. The documentarily qualified totals are used for setting the cutoff dates. It is therefore essential that the following general guidelines be strictly observed in preparing the monthly reports of documentarily qualified applicants:

- (1) All immigrant visa (IV) processing posts having documentarily qualified demand to report and the National Visa Center (NVC) must prepare Report 20, Monthly Report of Documentarily Qualified Immigrant Visa Demand, and submit it so that it arrives in the Department (CA/VO/F/I) before the first working day of the month. The automated immigrant visa (IV) processing system is used to generate this report and submit it via e-mail.
- (2) Data entry must be kept up to date so that all applicants who have become documentarily qualified during the reporting period are included.
- (3) No applicant's priority date should be reported twice unless an allocation was made on the basis of a previous documentarily qualified report and the applicant either failed to keep the appointment or was not qualified for a visa at that time and has subsequently returned.

NOTE: *A same-sex marriage is now valid for immigration purposes, as long as the marriage is recognized in the "place of celebration." A same-sex marriage is valid*

for immigration purposes even if the couple intends ultimately to reside in one of the states that do not recognize same-sex marriages. The same-sex marriage is valid even if the applicant is applying in a country in which same-sex marriage is illegal.

9 FAM 42.55 N1.2 Monthly Report of Immigrant Visas (IV) Issued

(CT:VISA-1560; 09-30-2010)

At the end of each month, posts authorized to issue immigrant visas (IV) must prepare and transmit the Immigrant Visa Workload Monthly Report (Report 28 in the automated immigrant visa (IV) processing system). This report will reflect all immigrant visas (IV) issued during the month.

9 FAM 42.55 N1.3 Annual Report

(CT:VISA-1560; 09-30-2010)

The Annual Report of Immigrant Visa Applicants Subject to Numerical Limitations (Report 29 in the automated system) is no longer required unless specifically requested by the Department.

9 FAM 42.55 N2 REPORTING ISSUANCES UNDER INA 101(A)(27)(K)

(CT:VISA-1323; 09-24-2009)

Section 2 of the Armed Forces Adjustment Act of 1991 (Public Law 102-110) established a new special immigrant class under INA 101(a)(27)(K) (see 22 CFR and 9 FAM 42.32(d)(7)). Documentarily qualified demand in this class should not be reported; allocations for this class will not be made by the Department. Issuances, however, must be reported on the Immigrant Visa Workload Monthly Report by specific visa classification symbol (SM1, SM2, or SM3).

9 FAM 42.55 N2.1 Visa Issuances and Adjustments Not Limited in Current Fiscal Year

(CT:VISA-1323; 09-24-2009)

Under INA 203(b)(6)(A), there are no numerical limitations for any aliens who qualify for special immigrant status under INA 101(a)(27)(K). However, since under INA 203(b)(6)(B) visa issuances and adjustments of status in this class are counted against the Employment-Based numerical limits in the following fiscal year, the Department must be kept informed of such issuances.

9 FAM 42.55 N2.2 Effect of Visa Issuances and Adjustments in Following Fiscal Year

9 FAM 42.55 N2.2-1 Worldwide Employment-Based Numerical Limits

(CT:VISA-1005; 09-05-2008)

Although numerical limits do not apply in the year of issuance or adjustment under INA 101(a)(27)(K), such visa issuances or adjustments impact visa number availability under INA 202 and 203 in the following fiscal year. Total admissions of immigrants whose status was based on qualification under INA 101(a)(27)(K), including spouses and children of Armed Forces personnel, will be divided by three; one-third of the total will be subtracted from the visa numbers available to each of the classes described in INA 203(b)(1), (2), and (3).

9 FAM 42.55 N2.2-2 Per-Country Ceiling

(CT:VISA-1560; 09-30-2010)

In addition, the per-country numerical limitation under INA 202(a) will be reduced by the number of such admissions attributable to natives of such country in the following year. For countries subject to the pro rating provisions of INA 202(e), there will also be a reduction of one-third of the total of such admissions attributable to that country in the pro rata amount of visas available in each of the Employment-Based First through Third preferences.

9 FAM 42.55 N3 PREPARING REPORTS

(CT:VISA-1323; 09-24-2009)

See the immigrant visa (IV) application users manual for instructions for preparing and submitting reports referred to in 9 FAM 42.55 N1 above.